

**MINUTES OF REGULAR MEETING
OF
GREENSBORO PLANNING BOARD
NOVEMBER 17, 2004**

The Greensboro Planning Board met in regular session on Wednesday, November 17, 2004 at 2:00 p.m., in the City Council Chambers, 2nd floor, Melvin Municipal Office Building. Board members present were Chair Patrick Downs, John Rhodes, Julius Koonce, Tim Bryson and Michael Fox. Planning staff members present were Dick Hails, Planning Director, Alec MacIntosh and Art Davis.

Chair Downs called the meeting into session.

APPROVAL OF MINUTES OF THE OCTOBER 20, 2004 REGULAR MEETING.

Mr. Bryson moved approval of the minutes of the October 20, 2004 regular meeting as submitted, seconded by Mr. Fox. The Board voted 5-0 in favor of the motion. (Ayes: Downs, Bryson, Rhodes, Koonce, Fox. Nays: None.)

PUBLIC HEARINGS:

A. RESOLUTION CLOSING PARKLAND DRIVE, FROM THE NORTHEASTERN RIGHT-OF-WAY LINE OF THE I-40 RAMP AT GUILFORD COLLEGE ROAD EASTWARD TO THE WESTERN RIGHT-OF-WAY LINE OF HYWOOD DRIVE, A DISTANCE OF APPROXIMATELY 750 FEET. (RECOMMENDED)

Mr. MacIntosh said this street was shown as a dirt road on the plat of McCallum Family Properties, recorded in Plat Book 95, Page 41 in 1989, but it was in existence long before that plat was recorded. The westernmost portion of the original right-of-way is now under the Interstate 40 exit ramp and not proposed for closing. Today Parkland Drive is no longer open or used for traffic circulation. There is no defined travelway or indication of the right-of-way being used for access to adjoining properties. All abutting properties have frontage on and access to other, publicly maintained streets. There are no water or sewer lines. There are overhead power and telephone lines. A 20-foot easement would be retained over these utility lines until no longer needed for public service. The street closing petition has been signed by both of the abutting property owners. No property is dependent upon this street right-of-way for access, and it is not needed for general circulation in the area. The Technical Review Committee (TRC) felt it was quite easy here to make the two required determinations for a street closing: (1) that the closing is not contrary to the public interest and (2) that no property owner in the vicinity is deprived of reasonable means of ingress and egress. Therefore, the TRC recommended this street closing.

The attorney for a petitioner was present to answer any questions from the Board, but there were none.

Chair Downs opened the public hearing. There were no speakers.

Mr. Rhodes moved to recommend this street closing to City Council, seconded by Mr. Bryson. The Board voted 5-0 in favor of the motion. (Ayes: Downs, Bryson, Rhodes, Koonce, Fox. Nays: None.)

B. RESOLUTION CLOSING LUTHER STREET, FROM NORTH BENBOW ROAD SOUTHWARD TO ITS END, A DISTANCE OF APPROXIMATELY 307 FEET. (RECOMMENDED)

Mr. MacIntosh said this street right-of way was dedicated in 1905 in the Garland Daniel Realty and Investment Company Subdivision. A University Events Center for North Carolina A&T State University is planned in this vicinity. This street closing request is another in a series as the University obtains land for campus expansion. The section of Luther Street immediately south of this one was closed in September 2003. This street is unused at present, but it was open and used for circulation in the past. It has 8-inch water and sewer lines in it. Upon closing, a 20-foot easement would be retained over each of those utility lines until no longer needed for public service. This petition was signed by the University as owner of 100% of the street frontage. No property is dependent upon this street right-of-way for access, and it is not needed for general circulation in the area. The TRC felt it is quite easy here to make the two required determinations for a street closing, and therefore it recommended this street closing.

Mr. MacIntosh said there was a representative from the University present so answer any question the Board might have.

Chair Downs opened the public hearing. There were no speakers.

Mr. Koonce moved to recommend this street closing to City Council, seconded by Mr. Rhodes. The Board voted 5-0 in favor of the motion. (Ayes: Downs, Bryson, Rhodes, Koonce, Fox. Nays: None.)

C. ORDINANCE AMENDING SECTION 30-4-4.7(B)(1), STREET PLANTING YARD, OF THE GREENSBORO DEVELOPMENT ORDINANCE TO CLARIFY HOW THE PLANTING YARD WIDTH IS TO BE MEASURED. (RECOMMENDED WITH SUGGESTED CHANGE IN LANGUAGE)

Mr. MacIntosh said this is simply a clarifying amendment. When the Unified Development Ordinance (UDO) was adopted, street planting yards were required to be outside the street right-of-way. However, it was customary at that time for all sidewalks to be inside the street right-of-way. When the sidewalk ordinance amendments were adopted by City Council, property owners were allowed to place the sidewalk outside of the street right-of-way in a sidewalk easement. That brought up the question of, "What then happens to the planting yard?" The interpretation was: if the sidewalk is immediately outside the street right-of-way, you would put in the sidewalk and then do the 8-foot street planting yard, thereby pushing it into the lot. This amendment echoes that interpretation. Staff recommended in favor of this amendment.

Chair Downs asked what "back of the sidewalk" in the text meant.

Mr. MacIntosh said they interpret "back" to mean the edge of the sidewalk toward the building. He said staff would be glad to take another look at the wording to try to make it clearer.

Chair Downs opened the public hearing. There were no speakers.

Mr. Fox moved that the Board recommend the amendment with revised language as requested by the Chairman, seconded by Mr. Bryson. The Board voted 5-0 in favor of the motion. (Ayes: Downs, Bryson, Koonce, Rhodes, Fox. Nays: None.)

ANNEXATION PETITIONS:

A. PROPERTIES OF JAMESTOWN CENTRE ASSOCIATES, COVENTRY PARTNERSHIP, AND

GERTRUDE H. MACON AT 6011 AND 6015 HIGH POINT ROAD – 29.651-ACRE SATELLITE ANNEXATION. (RECOMMENDED)

Mr. MacIntosh said this vacant property is approximately 3,000 feet along High Point Road from the primary city limits near Adams Farm Shopping Center. It also is less than 100 feet north of a previous satellite annexation, the Grandover West Golf Course. It is within the Tier 1 Growth Area as identified in Connections 2025. A previous annexation petition covering almost all of what was now proposed for annexation was recommended by this Board in 2000, but it was denied by City Council because the Council did not wish to approve the original zoning for apartment development as then proposed. A townhome development of 104 units is now proposed here. A 16-inch water line is in High Point Road along the frontage. An 8-inch sewer line lying to the east could be extended to this property. The provision of other City services should be comparable to their provision to the Adams Farm shopping Center area north of this annexation. The TRC recommended the annexation.

Mr. MacIntosh said a representative was present to answer any questions on this item.

Mr. Fox moved to recommend this satellite annexation to City Council, seconded by Mr. Bryson. The Board voted 5-0 in favor of the motion. (Ayes: Downs, Bryson, Koonce, Rhodes, Fox. Nays: None.)

B. PROPERTY OF THOMAS G. AND NANCY J. PEMBERTON AT 1433-1447 ALAMANCE CHURCH ROAD – 30.517-ACRE CONTIGUOUS ANNEXATION. (RECOMMENDED)

Mr. MacIntosh said the west and south sides of this property adjoin Zornbrook Valley, which is inside the city limits. The property is within the Tier 1 Growth Area. It has four houses, which are proposed to be removed and replaced by a new single-family subdivision of 90-some houses. There is an 8-inch water line in Alamance Church Road. There is an 8-inch sewer line there as well, but about a third of this property drains northeastward away from that line. Thus, depending on the placement of lots and the design of the sewer system, the developer might not be able to sewer this entire tract by gravity. The provision of other City services should be comparable to their provision to Zornbrook Valley. The TRC recommended the annexation.

Mr. Bryson moved to recommend this contiguous annexation to City Council, seconded by Mr. Koonce. The Board voted 5-0 in favor of the motion. (Ayes: Downs, Bryson, Koonce, Rhodes, Fox. Nays: None.)

[Note: after this meeting, an error was discovered in the property description submitted to the City; the error has been corrected, with the corrected area being 27.04 acres.]

ITEMS FROM THE DEPARTMENT:**A. PLANNING BOARD/ZONING COMMISSION JOINT MEETING JANUARY 2005.**

Mr. Hails said staff had now received confirmation that there would be a joint meeting with the Zoning Commission and the Planning Board Wednesday, January 19th at the Planning Board's regular meeting time. Staff definitely had one case, with the possibility of second case.

Mr. Bryson asked, when the two Boards met together, could one of the Chairs preface what they were doing so that everybody would understand why the joint meeting was being held.

Mr. Bryson left the meeting at 2:50 p.m.

B. DISCUSSION ON PROCEDURES FOR COMPREHENSIVE PLAN GENERALIZED FUTURE LAND USE MAP (GFLUM) AMENDMENTS.

Mr. Hails noted that there were two ways that the Comp Plan could be amended. One was when someone filed a rezoning and staff determined that it was not compatible with the Comp Plan; staff would ask that the applicant initiate a Comp Plan amendment to go along with the rezoning. Staff or City Council or citizens in general could also initiate a Plan amendment not related to a rezoning request.

Staff has put together a list of Comp Plan amendments that they believe will be beneficial to be carried out. These include several amendments to the text or policies and five or six amendments to the GFLUM. This has not come before the Board yet. Staff presented that package of materials to the Comp Plan Monitoring Committee a month ago and they asked for more time to go through it. At their December meeting, staff expects them to make their recommendations on those matters. Staff would then bring that package of Plan Amendments for public hearing at the Planning Board's January meeting. He wanted to first bring that to the Board's attention and make sure that the Board members were clear that there were two ways of a Plan amendment moving forward.

Mr. Hails thought that was an important backdrop to explaining to the Board his view about Plan amendment relative to rezoning. As happened in the case on Freeman Mill Road, when the Plan amendment was proposed, it raised other questions about modification of the land use classification on the adjoining property as well. In this case, that certainly was a legitimate question on surrounding property that totaled four or five times the area of the actual rezoning acreage. He was of the general opinion that when a Plan amendment was tracking with a rezoning, as it goes through the public process they are considered very close cousins, despite efforts to separate the process to look at the Plan first and then the zoning. The fact was that the Plan amendment would not have been initiated if it were not for a specific rezoning on a specific piece of property. He explained some of the unintended consequences that might occur when staff modified a Plan amendment to a considerably larger area than the original rezoning request.

Chair Downs said he was sure it was obvious at the last hearing that he was disappointed that the only thing that came before the Board for a Comp Plan amendment was a small piece of what was really a larger puzzle. It was very difficult for him to evaluate it in a broader context, as he thought you would in a Comp Plan analysis situation.

Mr. Hails said the Monitoring Committee has a life of about 12 to 18 more months before it would be dissolved and the Planning Board would become the staff's primary advisory body on all matters pertaining to the Comp Plan. He was most concerned that they have a smooth transition on that and had even discussed the possibility of having a joint meeting of this Board and the Committee at some point in the future.

Mr. Fox suggested that the Planning Board and Zoning Commission be reminded of what their particular mandates are and what the questions and issues are that they each had to decide. He felt that would alleviate some of the issues during the joint meetings. He felt this would also help the public understand what the roles of each are.

Mr. Hails said he felt the overall function of the Planning Board was to oversee planning activities and some specific development review processes delegated to the Board. In the broader context, staff would bring to the Board some new planning undertakings that staff was moving ahead with as a result of trying to fulfill the Comp Plan's many mandates, such as corridor plans, fringe area land use plan and

the like. In about a year, staff will have some draft sections of a new ordinance and will be presenting those to the Board.

Chair Downs said, on the issue of a deminimus threshold in terms of the Comp Plan review, it seemed to him that a deminimus test might apply on the fringe or where they were simply adjusting a line between a purple or yellow.

Mr. Hails said he thought that he and his staff were sympathetic to that.

Mr. Hails said another issue that came out of the discussion at the joint meeting was about interpretation of what constituted "mixed use." Council member Phillips had asked that that discussion be put on a later City Council briefing session. However, in the adopted Comp Plan there are very few specifics on that, and he thought some of the doctrines he was trying to espouse, such as variable standards as you move from lower density areas to Downtown and the practical ability to achieve mixed use changes should be acknowledged. The other issue was whether the rewriting of the Zoning Ordinance was really where you put teeth in the mixed use and where a community debate should ensue on whether mixed use must include residential. He thought if City Council was getting into it, it would be advisable to encourage the Board members' thoughts on it on the way to a Council discussion.

C. CONTINUING DISCUSSION CONCERNING TIME LIMITS ON SPEAKERS AT JOINT MEETINGS AND/OR REGULAR MEETINGS.

Chair Downs suggested that if other Board members had a sense that the Board could benefit from limiting time on speakers, speak up and make a motion and then they could take an action on that. He said he tended to err personally on the side of letting folks say what they had to say, but at some point it became very unproductive for everybody.

D. 2004-05 NEIGHBORHOOD SMALL PROJECTS PLAN.

Mr. Davis stated that the Board had received a tentative schedule of the 2005-06 CIP Program at the last Board session. Mr. Davis distributed copies of the guidelines and application for the Neighborhood Small Projects Program. Both items in the package were designed in cooperation with the Housing and Community Development Department. Several suggestions from Board members were used in developing the package. Mr. Davis thanked the Board for their support which is essential for the success of the Program.

Mr. Davis highlighted some of the important dates for Board involvement. He indicated that staff planned to distribute the guidelines and applications at the next meeting of the Greensboro Neighborhood Congress. In addition, two information sessions are planned for citizen inquiries. He further explained the evaluative criteria for project selection. He said staff would continue the interdepartmental approach that was used last year in evaluating the projects.

Chair Downs thanked Mr. Davis on behalf of the Planning Board and the City. He said this was a much better process.

ITEMS FROM THE CHAIRMAN:

None.

ITEMS FROM BOARD MEMBERS:

Mr. Rhodes asked for an update on the University Inn matter.

Mr. Hails said that at the City Council the previous night, they agreed to modify the ordinance to make the changes that the Board members saw at earlier meetings. He did convey to Council some of the practical benefits of making that change, but he also conveyed to Council the Board members' concern about the enforcement situation where it appeared that the property owners had fallen into violation of the existing zoning regulations. Also, he did try to convey, at least in general terms, some of the deliberations the Board had on this issue.

Mr. Hails said Council did approve the amendment, yet they had a lengthy discussion about whether this was really the ultimate fix to this type of situation. He reminded Council that the Ordinance rewrite that was coming up would give staff an opportunity to revisit a number of issues related to college communities and surrounding neighborhoods and how they could co-exist.

Mr. Rhodes said what bothered him most was that it was obvious to everyone concerned that they had a situation where an ordinance was violated. They then turned around and amended the ordinance so that the violator could continue to operate in the same fashion.

Mr. Hails said he was sympathetic with that, but he felt, aside from the merits of the enforcement situation, that there was a need for some overhauling of the ordinance and he thought there was still a need for other changes staff would be looking into.

SPEAKERS FROM THE FLOOR ON ITEMS UNDER PLANNING BOARD AUTHORITY.

None.

APPROVAL OF ABSENCES.

Mr. Fox moved approval of the absences of Mr. Hall, Mr. Pike, Mr., McIntyre and Mr. Marks, seconded by Mr. Rhodes. The Board voted 5-0 in favor of the motion. (Ayes: Downs, Bryson, Rhodes, Koonce, Fox. Nays: None.)

QUORUM AT MEETINGS.

Mr. Hails said he knew the Board, as well as staff and members of the public, could be very inconvenienced by not achieving a quorum at meetings. He said if staff could know for sure if a Board member would not be attending a meeting several days in advance, they could do several things to help soften the impact. If staff knew for certain there would not be a quorum, they could get on the phone with various interested parties of items on the agenda and try to put the word out so at least they would not have to come down and they could know in advance that it would be carried over to the next meeting. He encouraged the Board members to let staff know as soon as possible if they would be unable to attend a meeting.

Chair Downs said that was certainly reasonable. He thought Ms. Cleaton should call them, rather than the day of the meeting, about three days in advance and say, "Are you going to be there?" Certainly the last-minute emergency may arise that throws a monkey wrench in it, but that would give staff pretty

clear warning.

Mr. Hails said perhaps Ms. Cleaton could call the Friday before the meeting.

Mr. MacIntosh said when he e-mailed the agenda, that was a convenient opportunity that most members of the Board had availed themselves of to simply reply, "I'm sorry, I will be out of town for that meeting."

Chair Downs suggested that Mr. MacIntosh put a query in the e-mail up front, at the top, asking if that member will attend the meeting.

Mr. Rhodes said he would certainly appreciate having a phone call earlier than the day of the meeting. Mr. Fox said he thought a phone call on the Friday before the meeting would be appropriate.

Mr. Koonce said as a small business owner, sometimes he could get a business-related call the morning of the meeting that would necessitate his missing the meeting.

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There being no further business before the Board, the meeting was adjourned at 3:45 p.m.

Respectfully submitted,

Richard W. Hails, AICP
Planning Director

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